

## REMARKS

This responds to the Office Action dated on October 11, 2006. Claim 34 is amended to correct a typographical error that inadvertently omitted a period at the end of the claim. No claims are canceled, and no claims are added. Thus, claims 1-79 remain pending in the application.

### §103 Rejection of the Claims

Claims 33, 42, 54 and 63 were rejected under 35 U.S.C. § 103(a) as being unpatentable over King (U.S. Publication No. 2004/0246764) in view of Herner et al. (U.S. Publication No. 2005/0098800). Applicant respectfully traverses, and respectfully asserts that a *prima facie* case of obviousness has not been made.

The present application has a filing date of July 2, 2003. Herner et al. (2005/0098800) has a filing date of December 17, 2004, which is after the filing date of the present application. Herner et al. (2005/0098800) includes the following claim of priority: *Continuation-in-part of application No. 10/855,784, filed on May 26, 2004, which is a continuation of application No. 10/326,470, filed on Dec. 19, 2002, now abandoned.*

Applicant respectfully asserts it is improper to rely on a continuation-in-part application that has a filing date (December 17, 2004) after the filing date of the present application (July 2, 2003), because the continuation-in-part application may include new matter that was not included in the applications that are relied upon for a priority claim. Thus, Applicant requests the Examiner to consider Herner et al. (2005/0012119; application no. 10/855,784), in applying the rejection. Application 10/855,784 is identified as a continuation of the abandoned application 10/326,470, and this abandoned application is the only application in the claimed chain of priority that was filed before the present application.

Herner et al. (2005/0012119) refers to semiconductor elements that comprise two portions of a diode and an antifuse [0059], indicates the antifuse can be a thin layer of SiO<sub>2</sub> [0066], and further indicates that the antifuse can be formed between two halves of an incipient diode which becomes a diode only when the antifuse is ruptured [0063], that the antifuse can be formed on top of a diode [0073], and the diode can be formed above the antifuse [0080]. Applicant conducted an electronic search Herner et al. (2005/0012119), and was unable to find

any of the terms “intrinsic”, “p-i-n”, and “n-i-p”. Thus, it appears that the disclosed p-i-n diode in the continuation-in-part (2005/0098800) application relied upon in the rejection was added matter in the continuation-in-part.

Further, rejected claim 33 recites a diode gate connected to a second word line. The rejection does not assert that King includes a diode gate connected to a second word line, and Applicant cannot find in King a diode gate connected to a second word line.

Applicant requests that the rejection be withdrawn, and further requests consideration and allowance of claims 33, 42, 54 and 63.

*Allowable Subject Matter*

Claims 1-32 and 72-79 were allowed.

Claims 34-41, 43-53, 55-62 and 64-71 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully asserts these claims are in condition for allowance with their base claims.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6960 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

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Date 1-11-07

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 11 day of January 2007.

*Lisa Rosevear*  
Name

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Signature